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Legislative update

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South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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CONTENTS

HOUSE WEEK IN REVIEW	02
HOUSE COMMITTEE ACTION	10
BILLS INTRODUCED IN THE HOUSE THIS WEEK.....	15

NOTE: THESE SUMMARIES ARE PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND ARE NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. THEY ARE STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND ARE NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT.

HOUSE WEEK IN REVIEW

The House of Representatives amended and gave second reading approval to **S.12**. This bill establishes the **SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION** to conduct a comprehensive study of the state's tax system. The seventeen-member commission is to be composed of: (1) two members appointed by the Governor; (2) two members appointed by the President Pro Tempore of the Senate; (3) two members appointed by the Speaker of the House of Representatives; (4) two members appointed by the Chairman of the Senate Finance Committee; (5) two members appointed by the Chairman of the House Ways and Means Committee; (6) three members of the Senate to serve ex officio, to be appointed by the President Pro Tempore of the Senate; (7) three members of the House to serve ex officio, to be appointed by the Speaker of the House of Representatives; and (8) the Director of the Department of Revenue to serve ex officio. The members appointed according to items (1) through (5) may not be members of the General Assembly and must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, or tax law. Commission members shall serve without compensation and are ineligible for the usual mileage, subsistence, and per diem allowed by law for members of boards, committees, and commissions. Staffs of the Senate Finance Committee and the House Ways and Means Committee shall be available to assist the commission in its work. Any commission expenses are to be paid equally by the Senate and the House of Representatives. Commission members shall not receive information regarding the business of the commission from a lobbyist except through formal presentation to the commission at a meeting called in compliance with the Freedom of Information Act. A lobbyist is subject to a misdemeanor offense and penalties for a violation. The Taxation Realignment Commission is charged with developing criteria for assessing the effectiveness of the current tax system structure, as well as the likely systemic impact of any proposed changes affecting tax revenues, and reporting this criteria to the General Assembly within three months of the effective date of this legislation. All such criteria must be designed with an emphasis on the systemic balance of the state's revenue structure from the standpoint of adequacy, equity, and efficiency and with the goal of maintaining and enhancing the State as an optimum competitor in efforts to attract businesses and individuals to locate, live, work, and invest in the state. The commission must, no later than March 15, 2010, prepare and deliver a report and recommendation to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, including the text of an amendment that effectuates the recommendations. The commission's report must be a detailed, comprehensive, and careful evaluation of the state's tax system structure. The commission's report shall consider: (a) sales and use tax exemptions or limitations to be retained, modified, or repealed; (b) the assessment of state and local taxes levied and other provisions affecting state and local revenue to fund the operation and responsibilities of state and local government, respectively; and (c) any fee, fine, license, forfeiture, or Other Funds. Additionally, the commission shall study and make recommendations to the General Assembly of the advantages and drawbacks of a revenue neutral replacement of the state individual and corporate income tax, state imposed sales and use tax, estate tax, bank tax, savings and loan association tax, and taxes on beer, wine, and alcoholic beverages with a broadly based consumption tax modeled on the proposed federal Fair Tax as that form of tax would have to be adapted to apply on the state level. In its study,

the commission shall specifically consider how such a tax swap would affect jobs creation, savings and investment, and tax compliance costs for South Carolina taxpayers. The commission may continue to study identified subjects and make further legislative recommendations until January 1, 2011, at which time it shall be dissolved.

The House approved and sent to the Senate **H.3231**, a **PROPOSED CONSTITUTIONAL AMENDMENT PROVIDING FOR THE JOINT ELECTION OF GOVERNOR AND LIUTENTANT GOVERNOR**. This joint resolution proposes to amend the State Constitution so as to provide for the joint election of the Governor and Lieutenant Governor beginning with the general election of 2014.

The House amended, approved, and sent to the Senate **H.3297**, relating to **SCHOOL SNACKS, FOOD AND BEVERAGES**. This bill provides that each district's Coordinated School Health Advisory Council shall determine which snacks and beverages may be sold for student consumption during the regular school day. The bill outlines nutritional guidelines for snacks and beverages sold for student consumption. There are different nutritional guidelines for beverages sold in elementary, middle and high schools. Snacks and beverages offered for student consumption in vending machines in middle and high schools must conform to the same nutritional standards. Snacks and beverages may not be offered for sale for student consumption in vending machines in elementary schools. At least 50 percent of nonmilk beverages offered for sale for student consumption in elementary, middle, and high schools must be water and zero calorie or low calorie options. Beginning with the 2009-2010 school year, the only food that may be served to a student in an elementary school during breakfast and lunch periods is food that is sold as a full meal. However, if a child brings a meal from home, the child may purchase individual meal items. Beginning with the 2009-2010 school year, the legislation outlines certain nutritional guidelines that food served to a student in an elementary, middle, or high school during the regular school day that is not a 'full meal' must contain. Portion size for a la carte sales in a cafeteria must not exceed the serving size of the food served in the National School Lunch Program or School Breakfast Program. These provisions may not be construed to prohibit or limit the school approved sale or distribution by students, teachers, or groups, of any food or beverage item for fundraising purposes.

The House returned **S.126** to the Senate with amendments. The legislation revises to **HANDICAPPED PARKING** provisions to include new requirements, such as: heightening the criteria doctors must find before qualifying a person as handicapped; increasing the fines and penalties for those caught abusing the handicapped parking laws; defining the marked access aisle adjacent to the handicapped parking place to clarify that non-handicapped people may not block this space; and requiring the photograph of the handicapped person to be on the placard. The legislation provides for the processing of all handicapped placards through a central office and for issuing only one placard per person. The bill's effective date is delayed for six months, and it requires a renewal of all placards over a three year period.

The House amended, approved, and sent to the Senate **H.3550**, a bill that revises the Building Energy Efficiency Standard Act, redesignating it the "**ENERGY STANDARD ACT.**" The legislation adopts the 2006 edition of the International Energy Conservation Code as the energy standard and provides that all new and renovated buildings must comply with this standard. The legislation provides that local building officials shall enforce the energy standard and provides for alternative enforcers in areas without a

Legislative Update, May 5, 2009

building official. Building officials are authorized to issue and revoke building permits and inspect construction of buildings issued permits. The legislation requires local jurisdictions to provide an appeals board and process for granting of certain variances. The legislation provides an exception and allows certain appeals to be heard by the South Carolina Building Codes Council. The legislation provides that a person or party may obtain injunctive relief. The legislation eliminates provisions relating to what constitutes compliance with the building envelope requirements of the energy code, free access to documents containing codes adopted by the Building Codes Council, and building permits for three storey homes.

The House amended, approved, and sent to the Senate **S.232** relating to **RENEWABLE ENERGY RESOURCES**. This bill provides the meaning of "renewable energy resources" as energy conservation and efficiency, solar photovoltaic energy, solar thermal energy, wind power, hydroelectric power, geothermal energy, tidal energy, wave energy, recycling, hydrogen fuel derived from renewable resources, biomass energy, energy derived from municipal and other solid waste, energy derived from waste oil, energy derived from waste tires, and landfill gas. The bill also states that the Public Utility Review Committee shall submit to the General Assembly, on an annual basis, a review of the state energy action plan of the State Energy Office. The legislation also establishes provisions for **ENERGY EFFICIENCY AND RENEWABLE ENERGY GOALS FOR STATE GOVERNMENT** requiring each agency to consider reductions of its energy, water, and wastewater use, and must implement recommended conservation measures to the degree the agency determines that the measures are cost effective. An audit must be performed by internal or external auditors, or by an energy services company. Audit results and recommendations must be included in the report to the State Energy Office. Agencies must comply by July 1, 2011.

The House amended, approved, and sent to the Senate **H.3488**, a joint resolution establishing a **STUDY COMMITTEE FOR VETERANS' AFFAIRS**. This joint resolution establishes a study committee to project the veteran population in South Carolina during the next twenty years; to study the advisability and feasibility of constructing an additional state veterans' nursing home in the state; to find ways in which the state should proceed to generate maximum use of state tax revenue for the benefit of veterans; and to study veterans' access to existing nursing facilities and adult daycare facilities and the availability of these facilities. The committee is comprised of three members of the Senate and three members of the House. The committee shall elect a chairman and a vice chairman and shall meet as often and at any locale in the state. The committee shall render a written report of its findings and recommendations to the General Assembly and to the Governor not later than April 1, 2010, at which time the committee shall be dissolved and this joint resolution shall expire. The committee shall receive clerical and related assistance from the staff of the Senate and the staff of the House of Representatives, as approved. The members of the committee may not receive compensation and are not entitled to receive mileage, subsistence, and per diem authorized by law for members of state boards and committees.

The House amended, approved, and sent to the Senate **H.3790**, the "**SOUTH CAROLINA MORTGAGE LENDING ACT**," which brings the state into compliance with new federal requirements for mortgage lenders imposed under the Secure and Fair Enforcement for Mortgage Licensing (S.A.F.E.) Act of 2008. Should a state fail to enact statutes that comply with the requirements of the federal legislation by July 1, 2009, the United States Department of Housing and Urban Development (H.U.D.) is authorized to

impose regulations. The legislation establishes new requirements for mortgage lenders and loan originators relating to: licensure, background checks, continuing education, record keeping, maintenance of surety bonds, reporting and filing, limitations on advertising and other business activities, penalties for violations, and participation in the Nationwide Mortgage Licensing System and Registry.

The House amended, approved, and sent to the Senate **H.3919**, a bill establishing the **SOUTH CAROLINA HOUSING COMMISSION** to provide recommendations to the Governor and the General Assembly on an annual basis to ensure and foster the availability of safe, sound, and affordable housing and workforce housing for every South Carolinian. The commission also may make recommendations relating to such other housing, real property, and community development issues as it considers desirable. The commission is charged with reviewing newly enacted federal legislation pertaining to mortgage lending and brokering and determining if the federal legislation necessitates amendments to the laws of this State. The commission shall consist of seventeen members: seven must be members of the House of Representatives to be appointed by the Speaker of the House; five must be members of the Senate to be appointed by the President Pro Tempore of the Senate; and five must be nonlegislative members selected by the other legislative members. All members must be qualified electors of this State.

The House approved and sent to the Senate **H.3707**, a bill requiring **MOTOR FUEL TERMINALS TO OFFER FOR SALE PRODUCTS THAT ARE SUITABLE FOR SUBSEQUENT BLENDING EITHER WITH ETHANOL OR BIODIESEL**. A person or entity is prohibited from taking an action to deny a motor fuel distributor or retailer from being the blender of record. In addition, motor fuel distributors, retailers, and refiners must utilize the renewable identification number (RIN). The legislation may not be construed to imply a market value for the RINs. The legislation also declares violations as an unfair trade practice and each violation is a separate offense.

The House amended, approved, and sent to the Senate **H.3814**, a joint resolution providing for a **HIGHWAY BEAUTIFICATION PILOT PROJECT**. This joint resolution provides that the Department of Transportation is authorized to develop and submit to the Federal Highway Administration an outdoor advertising control pilot project that permits qualified applicants to upgrade one nonconforming wooden or I-beam sign adjacent to Interstate 26 or Interstate 95 in exchange for the applicant's removal of at least two of his other nonconforming signs of similar or larger size on routes regulated by the Highway Control Act.

The House approved and sent to the Senate **H.3761**. This bill allows **FORFEITED MONIES AND PROCEEDS FROM THE SALE OF PROPERTY RELATED TO DRUG PROCEEDS TO BE USED FOR TRAINING AND EDUCATION BY LAW ENFORCEMENT**.

The House approved and sent to the Senate **H.3377**. This bill provides that **NATIONAL PARK SERVICE RANGERS ARE FEDERAL LAW ENFORCEMENT OFFICERS WHO ARE AUTHORIZED TO ENFORCE THE STATE'S CRIMINAL LAWS**.

The House approved and sent to the Senate **H.3252**, a bill relating to **SUSPENSION OF A PERSON'S DRIVER'S LICENSE FOR CERTAIN CONTROLLED SUBSTANCE CONVICTIONS**. Current law provides for a mandatory suspension of a person's driver's

license for controlled substance violations involving hashish or marijuana. This bill provides that a driver's license suspension under these circumstances is in the discretion of the judge.

The House approved and sent to the Senate **H.3087**. Under this bill, a **LOCAL GOVERNMENT MAY NOT ENACT AN ORDINANCE THAT EXPANDS OR CONTRACTS THE BOUNDARIES OF THE AREAS IN WHICH A SEX OFFENDER MAY OR MAY NOT RESIDE THAT ARE CONTAINED IN STATE LAW.**

The House amended, approved, and sent to the Senate **H.3118**, a bill relating to the **SOUTH CAROLINA GUARDIAN AD LITEM PROGRAM**. This bill allows the South Carolina Guardian ad Litem Program, or a county guardian ad litem program, whichever is appropriate, to intervene in an abuse or neglect proceeding in order to petition the court to relieve the volunteer, lay guardian ad litem from appointment for the following reasons: (a) incapacity; (b) conflict of interest; (c) misconduct; (d) persistent neglect of duties; (e) incompetence; or (f) a knowing and wilful violation of program policies and procedures that affect the health, safety, and welfare of the child. The court shall determine what is in the best interest of the child when ruling on the petition. This bill also provides that reports and information maintained by a guardian ad litem are confidential.

The House approved and sent to the Senate **H.3130**, a bill relating to the **DETERMINATION OF WHEN A PARCEL OF REAL PROPERTY MUST BE APPRAISED AS A RESULT OF AN ASSESSABLE TRANSFER OF INTEREST**. This bill provides that a conveyance to a trust does not constitute an assessable transfer of interest in the real property if the settlor or settlor's spouse conveys the property to a trust the beneficiaries of which are a child or children of the settlor or the settlor's spouse. The bill further provides that a conveyance by distribution under a will or by intestate succession does not constitute an assessable transfer of interest in the real property if the distributee is a child or children of a decedent and the decedent did not have a spouse at the decedent's date of death.

The House amended, approved, and sent to the Senate **H.3677**, a bill enacting the **"VIOLENCE AGAINST WOMEN FEDERAL COMPLIANCE ACT"**. This legislation's stated intent is to bring South Carolina into compliance with the federal Violence Against Women Act. With regards to certain offenders being ordered by the court to be tested for Hepatitis B and HIV at the request of the victim, this bill broadens the definition of "offender" to include both juveniles and adults. The bill further provides that the Department of Health and Environmental Control must advise the victim of available treatment options, and upon request of the victim, provide testing and post-testing counseling. The legislation prohibits law enforcement and prosecuting officers from asking or requiring a victim of an alleged criminal sexual offense to submit to a polygraph examination; the refusal of a victim to submit to such an examination does not prevent the investigation, charging or prosecution of the offense. The legislation deletes the current provision requiring victims of criminal sexual conduct or child sex abuse to file incident reports for those victims to be able to receive a "medicolegal" examination without charge. At the time a person is convicted of violating certain criminal domestic violence offenses, this legislation requires the court to deliver to the person a written form that gives notice to the person that it is illegal under federal law for a person convicted of those offenses to ship, transport, possess or receive a firearm or ammunition.

The House amended, approved, and sent to the Senate **H.3841**, the "**TECHNICAL COLLEGE ADMINISTRATIVE EFFICIENCIES ACT OF 2009**". This legislation requires the State Board for Technical and Comprehensive Education (State Board) to establish a tiered system for categorizing technical colleges with respect to their financial strength and ability to manage day-to-day operations. The legislation grants administrative relief to the State Board from certain legislatively required procedures, and the State Board has the authority to grant administrative relief to the technical colleges upon the satisfaction of various conditions with regards to human resources, surplus property, leasing, procurement, grants management and capital building projects. The legislation includes provisions allowing a technical college to offer educational fee waivers to not more than six percent of its student body. Fee waivers above four percent of the student body must be used for in-state students. The legislation further requires that state-supported institutions of higher learning, including technical colleges, to report annually to the Commission on Higher Education the number of waivers granted during the fiscal year and other information the commission may require.

The House amended, approved, and sent to the Senate **H.3651**, legislation **LIMITING THE AUTHORITY OF COUNTIES AND MUNICIPALITIES TO RESTRICT OR REGULATE CERTAIN FORESTRY ACTIVITIES**. The legislation provides that a county or municipality must not adopt or enforce any ordinance, rule, regulation, resolution, or permit related to forestry activities on forestland that is:(1) taxed on the basis of its present use value as forestland; (2) managed in accordance with a forest management plan; (3) certified under the Sustainable Forestry Initiative, the Forest Stewardship Council, the American Forest Foundations Tree Farm System, or any other nationally recognized forest certification system; (4) subject to a legally binding conservation easement under which the owner limits the right to develop or subdivide the land; or (5) managed and harvested in accordance with the best management practices established by The State Commission on Forestry. A person whose application for a building permit, a site disturbance or subdivision plan, or any other approval for development is deferred pursuant these provisions may appeal the decision to the appropriate governmental authority.

The House amended and gave second reading approval to **H.3794** relating to additional prohibited activities on **WILDLIFE MANAGEMENT AREAS (WMA)**, Heritage Trust areas and other Department of Natural Resources owned lands. Among other things, this bill creates a misdemeanor criminal offense for entering or remaining on a closed area contrary to the instructions of a law enforcement officer, manager, or department custodial personnel. The legislation shall not interfere with the use and management of lands by a state agency charged with the management of those lands as part of the functions of the agency authorized by law or with the management and use by a landowner of his lands with the WMA program. In addition the legislation will not alter in any way the rights of owners of easements and rights of way within the boundaries of those lands.

The House amended, approved, and sent to the Senate **H.3720**, relating to **SERVICE BY PUBLICATION**. This bill provides that a court shall grant an order allowing a party with an interest in or lien on a parcel of real property subject to a partition action, mortgage foreclosure action, or other action affecting the property's title to serve by publication legal notice, summons, pleadings, or other court-required process or documents on a party unknown to the plaintiff and who has an interest in or lien on the

real property, if the: (a) residence of this unknown party cannot, with a reasonably diligent effort, be ascertained by the plaintiff; and (b) plaintiff presents an affidavit to the court stating he has been unable to ascertain the residence of the unknown party after making a reasonably diligent effort. A court order allowing a party to serve an unknown party by publication must require the party serving by publication to publish the service once a week for three weeks in a newspaper of general circulation in the county where the property is situated. Service by publication is equal to personal service on the unknown party. A party may accomplish service by publication for multiple units in a single horizontal property regime by consolidating the services into a single service that identifies each apartment included in the action based on the apartment's description in the master deed. This consolidated service must comply with the other requirements and other applicable statutes, including the requirement that publication must take place once a week for three weeks in a newspaper of general circulation in the county where the property is situated.

The House approved and sent to the Senate **H.3653**. This is a joint resolution to delay implementation of the provisions of Act 270 of 2008, relating to the requirement that **MUNICIPAL COURT JURY LISTS INCLUDE OTHERWISE QUALIFIED RESIDENTS OF THE MUNICIPALITY WHO HOLD A VALID SOUTH CAROLINA DRIVER'S LICENSE OR IDENTIFICATION CARD**, so as to postpone this expansion of the municipal court jury list until December 31, 2009.

The House approved and sent to the Senate **H.3917**, a joint resolution directing the South Carolina Department of Health and Human Services to maintain its **MEDICALLY FRAGILE CHILDREN'S PROGRAM**, which was established in 1996, and pursue any and all options with the Centers for Medicare and Medicaid Services for authority to maintain the existing program with its current eligibility criteria.

The House amended, approved, and sent to the Senate **H.3134**, relating to **GOLD STAR FAMILY SPECIAL LICENSE PLATES**. Current law does not define who is eligible for this special license plate. This bill allows the Department of Motor Vehicles to issue these special license plates to members of the immediate family of United States armed forces members killed in action. An immediate family member is defined as a parent, spouse, sibling, or child. Each qualifying person is entitled to a limit of two 'Gold Star Family' special license plates. This bill exempts these plates from certain production and distribution requirements, and it waives certain fees for these special license plates.

The House amended, approved, and sent to the Senate **H.3530**, allowing for **ADMINISTRATIVE PENALTIES FOR AUTOMOBILE DEALERS**. This bill allows the Department of Motor Vehicles (DMV) to impose and collect an administrative penalty not to exceed \$1,000 dollars for each of the acts, omissions, or violations of certain provisions by automobile dealers, automobile manufacturers, distributors, and wholesale motor vehicle auctions. Nothing in this legislation may be construed as precluding a prosecuting authority from prosecuting any acts, omissions, or violations that may constitute a violation of applicable criminal law. The DMV may impose and collect an administrative penalty of not more than \$9,000 dollars against a person or business for each vehicle sold without a license. The person or business is entitled to a hearing pursuant to the Administrative Procedures Act if the person or business contests an imposed penalty. The penalties collected pursuant to these provisions must be placed in

a special restricted account by the Comptroller General to be used to defray the expenses of the DMV.

The House gave second reading approval to **H.3467**. This bill authorizes a **STATE EMPLOYEE PAYROLL DEDUCTION FOR DUES OF THE SOUTH CAROLINA FRATERNAL ORDER OF POLICE**.

The House gave second reading approval to **S.13**. This bill provides for **MOTOR VEHICLE FEES AND PENALTIES TO BE PLACED IN THE STATE HIGHWAY ACCOUNT OF THE TRANSPORTATION INFRASTRUCTURE BANK** instead of the Department of Transportation.

The House approved **S.711** and enrolled the joint resolution for ratification. As a result of a major disease of citrus plants being discovered in Charleston County, the legislation directs the Clemson University Regulatory and Public Service Programs Division to establish a **QUARANTINE FOR CITRUS GREENING**, also known as Huanglongbing, for Charleston County. The legislation further establishes requirements for and the duration of the quarantine and penalties for violation.

The House approved and sent to the Senate **H.3957**, a bill relating to **OYSTER FACTORIES**. The legislation provides that, on any navigable river in this State where an oyster factory is located, the Department of Health and Environmental Control may utilize qualified personnel of the county or municipality in whose jurisdiction the factory operates to assist with the monitoring of water quality and other environmental standards the department is required to enforce. The assistance may be provided at the request of the department and upon the consent of the county or municipality concerned.

The House approved and sent to the Senate **H.3678**. This legislation makes a technical change regarding the **MAXIMUM GROSS VEHICLE WEIGHT FOR SPECIAL USE VEHICLES**.

The House approved and sent to the Senate **H.4008**, a concurrent resolution designating the month of November 2009 as “**EPILEPSY AWARENESS MONTH**” in South Carolina.

The House recommitted to the Judiciary Committee **H.3442**, a bill that restructures and consolidates the functions of the Employment Security Commission and workforce training programs administered by the Department of Commerce within a new **DEPARTMENT OF WORKFORCE** established under the executive branch of government.

The House recommitted to the Agriculture, Natural Resources, and Environmental Affairs Committee **H.3889**, a bill to provide that a horse must be tested for **EQUINE STRANGLES** before entering the state.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee did not meet this week. However, [H.3543](#) providing for a **MODEL DATING VIOLENCE POLICY**, received a favorable with amendment report from the Education and Public Works Committee on April 23, 2009. The amendment was not posted in time to be included in last week's edition of the *Legislative Update*. This bill requires the State Department of Education to develop a model dating violence policy to assist school districts in developing their own policies for reporting and responding to dating violence among students in grades six through twelve. Among other things, the bill outlines what must be included in the policies, and it provides reporting and publication requirements. By the beginning of the 2010-2011 school year, each school district shall establish a specific policy to address incidents of dating violence involving students in grades six through twelve. School districts must inform parents and guardians of the policy and provide them with a copy of the policy upon request. These provisions are subject to the availability of funds.

JUDICIARY

The Judiciary Committee met on Wednesday, April 29, 2009. The committee gave a favorable with amendment report to [S.351](#), relating to the **SOUTH CAROLINA STATE PORTS AUTHORITY**. Under this bill, the governing authority is a board of directors consisting of nine members, appointed by the Governor with the advice and consent of the Senate, for terms of six years each and until their successors have been appointed, screened and have qualified. Beginning, January 15, 2011, the membership of the board shall include one member from each of the six congressional districts, one from the state at large, the Secretary of Transportation to serve ex officio and the Secretary of Commerce to serve ex officio. The legislation provides for staggered terms. The legislation creates a Joint Commission on Ports Authority Qualification. A candidate for appointment to the board may not be confirmed by the Senate or serve on the board, even in an interim capacity, until he is found qualified by possessing the abilities and experience and having the minimum qualifications as outlined in the legislation and determined by the Joint Commission on Ports Authority Qualification. When making appointments to the board, the Governor shall ensure that the diverse interests represented by the port are represented on the board. Members of the board may be removed by the Governor pursuant to Section 1-3-240(A), a breach of duty required by Section 54-3-80, or entering into a conflict of interest transaction prohibited by Section 54-3-90. The legislation allows the board to elect one of its members to serve as chairman, and the legislation specifically provides there is no term limit for a member selected by the board as chairman. Board members are required to act in good faith and in a manner they reasonably believe to be in the best interests of the authority. The

legislation defines a conflict of interest transaction, and under what circumstances such a transaction is not voidable.

The board of directors shall employ an executive director who shall serve at the pleasure of the board. A person employed to this position shall possess practical and successful business and executive ability and must be knowledgeable in the field of port operations. The executive director shall appoint a director for each division contained in the organizational structure established by the board; division directors serve at the pleasure of the executive director. The legislation requires the executive director to employ a director of port operations for the port of Georgetown. Compensation for the executive director and division directors must be approved by the board in a public vote. The board must conduct an annual performance review of the executive director and submit a written report of its findings to the Governor and General Assembly. A draft of the performance review must be submitted to the executive director, and the executive director must be given an opportunity to be heard by the board before the board submits its final draft to the Governor and the General Assembly.

The Senate Transportation Committee and the House of Representatives Ways and Means Committee must each conduct an oversight review of the authority and its operations at least once every two years. The committees may coordinate their reviews to reduce duplication. A written report of the findings from each oversight review must be published in the journals of both houses and made available on the General Assembly's website. Each committee may undertake any additional reviews, studies, or evaluations it deems necessary.

Among other things the legislation requires the authority to develop a long-range port development and capital financing plan, and it has a duty to review port operation and proposals for future operations and constructions to determine whether utilizing a public-private partnership is advantageous. At least once each year the authority shall furnish the Governor and post on its website a complete detailed statement of all monies received and disbursed during the previous year. The legislation requires approval by the Budget and Control Board for the sale of any real property held by the authority. The legislation adds Jasper to the list of ports the authority has responsibility for, and it directs the authority to take necessary action to establish a port at Jasper in accordance with the compact between South Carolina and Georgia. The legislation directs the authority to complete construction of a container terminal in North Charleston. The authority is to explore and enter into beneficial public-private partnerships. However, the board retains all authority associated with entering a public-private partnership on behalf of the port. The legislation transfers all railroads and related property located in the former naval base to the Division of Public Railways.

H.3677, enacting the “**VIOLENCE AGAINST WOMEN FEDERAL COMPLIANCE ACT**,” received a favorable with amendment recommendation from the Judiciary Committee. This legislation's stated intent is to bring South Carolina into compliance with the federal Violence Against Women Act. With regards to certain offenders being ordered by the court to be tested for Hepatitis B and HIV at the request of the victim, this bill broadens the definition of “offender” to include both juveniles and adults. The bill further provides that the Department of Health and Environmental Control must advise the victim of available treatment options, and upon request of the victim, provide testing and post-testing counseling. The legislation prohibits law enforcement and prosecuting officers from asking or requiring a victim of an alleged criminal sexual offense to submit to a

polygraph examination; the refusal of a victim to submit to such an examination does not prevent the investigation, charging or prosecution of the offense. The legislation deletes the current provision requiring victims of criminal sexual conduct or child sex abuse to file incident reports for those victims to be able to receive a “medicolegal” examination without charge. At the time a person is convicted of violating certain criminal domestic violence offenses, this legislation requires the court to deliver to the person a written form that gives notice to the person that it is illegal under federal law for a person convicted of those offenses to ship, transport, possess or receive a firearm or ammunition.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on Thursday, April 30, and reported out several bills.

The committee gave a favorable report on **S.364**, a bill establishing the **VOLUNTEER STRATEGIC ASSISTANCE AND FIRE EQUIPMENT (V-SAFE) PROGRAM** to offer grants to eligible volunteer and combination fire departments to pay for training and purchase protective gear, fire suppression equipment, vehicles, and other materials needed for the purpose of protecting local communities from incidents of fire, hazardous materials, and terrorism and to provide for the safety of volunteer firefighters. Grants awarded shall not exceed thirty thousand dollars per year for each eligible chartered fire department, with no matching or in-kind money required. A chartered fire department may be awarded only one grant in a three-year period. The grant program is contingent upon the General Assembly appropriating sufficient funds. The grants are to be administered by the State Fire Marshal in conjunction with a peer review panel that is established under the legislation.

The committee gave a report of favorable with amendments on **S.630**, a bill establishing new **LIMITATIONS ON REQUIREMENTS IMPOSED ON MOTOR VEHICLE DEALERS BY MANUFACTURERS OR DISTRIBUTORS**. This bill prohibits a motor vehicle manufacturer, distributor, factory representative, or distributor representative to require, coerce, or attempt to coerce any motor vehicle dealer to change the location of the dealership or to make any substantial alterations to the dealer’s premises or facilities unless specified conditions are met. The legislation specifies the conditions under which it is unlawful for any manufacturer, distributor, factory branch, distributor branch, factory representative, or distributor representative to require, coerce, or attempt to coerce any motor vehicle dealer to refrain from participation in the management of, investment in, or acquisition of any other make or line of new motor vehicles or related products. The legislation revises provisions relating to motor vehicle dealers, so as to provide certain factors that must be considered in calculating the fair and reasonable compensation for the value of a motor vehicle dealership.

The committee gave a favorable report on **S.301**, a bill that revises **INSURANCE PROVISIONS** to bring them into compliance with the accreditation standards of the National Association of Insurance Commissioners which allow South Carolina’s insurance provisions to enjoy reciprocity with those of other states. The bill enacts provisions requiring certain insurers to file a statement of actuarial opinion and actuarial opinion summary annually and provide for the confidentiality of these documents. The

Legislative Update, May 5, 2009

legislation revises provisions relating to the revocation or suspension of license of an insurer and its officers and agents for the publication of the notice, so as to provide a procedure for an aggrieved insurer to request a hearing before the director or his designee and provide recourse through judicial review. The legislation redefines the term “company action level event”. The legislation revises provisions relating to approval for acquisition of a domestic insurer by a controlling producer in another state, so as to eliminate the applicability to foreign producers and correct certain references.

The committee gave a report of favorable with amendments on **S.202**, a bill revising various **INSURANCE PROVISIONS**. The legislation revises provisions of Title 38 relating to the Department of Insurance, so as to amend the definition of “admitted assets” to include those on the insurer’s most recent statutory financial statement filed with the Department of Insurance pursuant to the provisions of Section 38-13-80 instead of those admitted under the provisions of Section 38-11-100. The legislation revises provisions relating to capital and surplus required of stock insurers, so as to change the marketable securities that may be required by the Director of Insurance. The legislation revises provisions relating to the surplus required of mutual insurers, so as to change the marketable securities which may be required by the Director of Insurance. The legislation revises provisions relating to the reduction from liability for the reinsurance ceded by a domestic insurer, so as to change the securities listed that qualify as security. The legislation revises provisions relating to the protected cell assets of a protected cell, so as to change a code reference. The legislation revises provisions relating to the security deposit of a health maintenance organization, so as to eliminate the requirement that a health maintenance organization shall issue a conversion policy to an enrollee upon the termination of the organization. The legislation revises provisions relating to loans to directors or officers by an insurer, so as to change a code reference. The legislation also revises automobile insurance provisions that relate to receiving a driver training course credit.

The committee gave a report of favorable with amendments on **H.3941**, a bill revising **PYROTECHNIC SAFETY** provisions. The comprehensive legislation: changes the name of the State Board to the State Board of Pyrotechnic Safety; increases the State Board membership; requires licensure for the manufacturing, sale, or storage of fireworks; authorizes the Department of Labor, Licensing and Regulation, fire chiefs, and law enforcement officers to investigate complaints; provides grounds for disciplinary action; requires liability insurance; requires reporting of fires and explosions; provides criminal and civil penalties for violations; and further provides for the licensure and regulation of persons handling fireworks.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The full committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3975 MILITARY MEMBERS EXEMPTED FROM HUNTER'S EDUCATION PROGRAM Rep. G. M. Smith

For certain persons, the hunter's education program is a prerequisite to receiving a South Carolina hunting license. This bill outlines that this provision does not apply to active or retired United States Armed Services personnel who can demonstrate to the department that they received weapons training during their military career.

H.3977 DRUG-RELATED HAZARDOUS WASTE Rep. Nanney

This bill outlines that where drug-related hazardous waste is found on a parcel of property and a document warning of the continued possible presence of this drug-related hazardous waste on the property is recorded in the office of the clerk of court or register of mesne conveyance in the county where the property is situated, the property's owner may seek from the Department of Health and Environmental Control a written determination of whether drug-related hazardous waste exists on the property. The bill defines "drug-related hazardous waste" as hazardous chemicals, materials, or substances used in connection with the manufacture of illegal drugs or items contaminated by these chemicals, materials, or substances.

H.3996 POINT SYSTEM FOR HUNTING AND FISHING VIOLATIONS Rep. M. A. Pitts

This bill outlines that the Department of Natural Resources shall deduct three accumulated points from a person's record upon a showing that the person successfully completed the department's instruction program. The bill further outlines that no more than six points can be deducted in this manner in a calendar year.

EDUCATION AND PUBLIC WORKS

S.166 HIGHWAY BEAUTIFICATION PILOT PROJECT Sen. Campsen

This is a joint resolution to authorize the Department of Transportation to design and implement a highway beautification pilot project to reduce the number of nonconforming billboards throughout the State.

S.377 PUBLIC INSTITUTIONS OF HIGHER LEARNING CREDIT CARD MARKETING AND SOLICITATION POLICY Sen. Scott

This legislation requires a public institution of higher learning to develop a credit card marketing and solicitation policy; the policy must be filed with the Commission on Higher Education. The legislation provides considerations for the policy and prohibits a public

institution of higher learning that has not adopted a policy from allowing a credit card marketer to distribute applications or promotional or marketing materials.

H.3978 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) PROGRAMS IN HIGH SCHOOLS Rep. Cobb-Hunter

Relating to the requirement that each school district implement an automated external defibrillator (AED) program for each high school in the district, this bill requires biannual emergency AED practice exercises on school grounds and requires each high school to obtain and designate an AED for training purposes. The bill outlines requirements for the training program.

H.4011 SOUTH CAROLINA WILDLIFE SPECIAL COMMEMORATIVE LICENSE

PLATES Rep. Umphlett

Relating to the "Non-Game Wildlife and Natural Areas Fund" special license plate, this bill changes the name of the license plate to the South Carolina Wildlife special commemorative license plates. The bill revises the fund in which proceeds from the sale of this license plate must be placed and provides the guidelines which must be followed before and after this license plate is produced.

JUDICIARY

S.153 HOME INVASION Sen. Campsen

This legislation creates the felony offense of home invasion punishable by life imprisonment. The court, in its discretion, may sentence a defendant to a term of not less than twenty years. Under this bill, home invasion is a violent crime. The legislation provides an exception for a law enforcement officer acting within the scope of the officer's official duties.

S.288 VIOLENT CRIMES AND DRIVER'S LICENSES AND SPECIAL IDENTIFICATION CARDS Sen. Martin

This bill provides that a person who is convicted of a violent crime must surrender his driver's license or special identification card to the court which must transmit it to the Department of Motor Vehicles together with notice of the crime. The bill further provides that the driver's license or special identification card is considered revoked and must not be returned to the person under certain circumstances. Under this bill, a person convicted of a violent crime must have a special code affixed to the reverse side of his driver's license or special identification card that identifies the person as having been convicted of a violent crime. The bill provides a fee to be charged for affixing the code and for its distribution, and it provides a process for removing the code. Applications for a driver's license or special identification card must contain a statement to determine whether the applicant has been convicted of a violent crime.

S.589 ASSISTANT ADJUTANT GENERAL Sen. Hayes

When authorized by the National Guard Bureau, this bill provides that there may be an additional Assistant Adjutant General for the South Carolina Army National Guard who may hold the rank of major general.

S.593 CARRYING WEAPONS ON SCHOOL PROPERTY Sen. Martin

Relating to the prohibition on carrying weapons on school property, this legislation provides an exception for a person who is authorized to carry a concealed weapon when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

S.617 WILDLIFE MANAGEMENT AREAS Sen. Cromer

Among other things, this bill specifies additional prohibited activities on wildlife management areas, Heritage Trust areas and other Department of Natural Resources owned lands. This bill also creates a misdemeanor criminal offense for entering or remaining on a closed area contrary to the instructions of a law enforcement officer, manager, or department custodial personnel.

H.3973 PENALTIES FOR DRIVING WITHOUT A LICENSE Rep. Delleney

Relating to penalties for driving without a license, this bill permits various offenses to be tried in magistrates or municipal court.

**H.3976 ELIGIBILITY FOR OFFENDERS TO BE PLACED ON HOME
DETENTION Rep. G. M. Smith**

This bill allows certain drug and controlled substance offenders to participate in the home detention program.

**H.3986 ATTORNEY NOT NEEDED FOR CERTAIN TRANSACTIONS
Rep. E. H. Pitts**

Notwithstanding another provision of law, this bill provides that a licensed attorney is not necessary to supervise or conduct any aspect of the refinancing of an existing real estate mortgage including title examination, loan document preparation, closing, or perfecting settlement of the old mortgage and recordation of the new mortgage. The bill also makes conforming changes to Section 37-10-102, relating to attorneys' fees for mortgages.

**H.3987 FLORENCE COUNTY PROVISIONS RELATING TO DISCHARGING A
FIREARM ON PROPERTY OWNED BY OR UNDER THE CONTROL
OF
A HOMEOWNER'S ASSOCIATION OR RESIDENTIAL SUBDIVISION
Rep. Lowe**

This bill provides that in Florence County a person must obtain permission from the governing body of a homeowner's association or a residential subdivision before he may discharge a firearm on property owned by or under the control of the homeowner's association or residential subdivision. A civil fine of not more than \$100 dollars must be imposed upon a person who violates this section and paid to the homeowner's association or residential subdivision. A person may not be fined if the discharge of his firearm is covered by a legal defense.

**H.3988 ENFORCEMENT OF A LIEN IN CONNECTION WITH A SELF-
SERVICE
STORAGE FACILITY Rep. Funderburk**

Relating to enforcement of a lien in connection with a self-service storage facility, this bill provides another procedure for enforcement of a lien against a titled vehicle.

H.3994 *TRANSPORTATION AND STORAGE OF FIREARMS IN A LOCKED VEHICLE* Rep. G. M. Smith

This bill provides that a person, property owner, tenant, employer, or business entity may not establish a policy or rule that prohibits a person, except a convicted felon, from transporting and storing firearms in a locked vehicle on property set aside for the vehicle.

H.4005 *PROHIBITIONS ON INDIVIDUALS SEEKING ELECTION TO MEMBERSHIP ON THE GOVERNING BOARD OF A PUBLIC INSTITUTION OF HIGHER LEARNING* Rep. Sellers

This legislation provides that it is unlawful for an individual seeking election to membership on the governing board of a public institution of higher learning required to file a notice with the joint screening committee to make or offer to make a contribution to a candidate for election to the General Assembly or to host or otherwise sponsor any fundraising event for any such candidate from the time the individual files the notice with the joint screening committee through the date the office is filled by a vote of the General Assembly.

LABOR, COMMERCE AND INDUSTRY

S.362 *WORKERS' COMPENSATION COVERAGE OF FIREFIGHTERS' HEART AND RESPIRATORY DISEASES* Sen. Alexander

This bill revises provisions relating to firefighters covered under South Carolina Workers' Compensation law and the presumption regarding impairment or injury from heart disease and/or respiratory disease, to provide that the impairment or injury is considered to have arisen out of and in the course of employment if they have successfully passed a physical exam within the last two years.

S.374 *LABOR PROVISIONS* Sen. Martin

This bill revises provisions relating to posting notices concerning the employment of adults and children in places of employment, so as to eliminate the requirement for notice to be posted in every room where five or more persons are employed. The legislation eliminates provisions relating to the establishment of the Division of Labor within the Department of Labor, Licensing and Regulation and eliminates obsolete language.

S.390 *"MENTAL HEALTH PARITY AND ADDICTION ACT OF 2009"* Sen. Hayes

This bill enacts the "Mental Health Parity and Addiction Act of 2009" to revise provisions relating to medical and surgical benefits and mental benefits health insurance coverage by adding provisions relating to substance use disorder coverage, financial requirements, and treatment limitations.

S.455 *"SOUTH CAROLINA HEALTHNET PROGRAM"* Sen. Thomas

This bill enacts the "South Carolina HealthNet Program" to promote the availability of health insurance coverage to employees of small employer groups and health group cooperatives regardless of health status or claims experience.

S.636 “LIFE SETTLEMENTS ACT” Sen. Thomas

This bill enacts the “Life Settlements Act” to provide for the regulation of life settlement contracts.

S.673 “SOUTH CAROLINA MORTGAGE LENDING ACT” Sen. Thomas

This bill enacts the “South Carolina Mortgage Lending Act,” to bring the state into compliance with new federal requirements for mortgage lenders imposed under the Secure and Fair Enforcement for Mortgage Licensing (S.A.F.E.) Act of 2008.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.188 TATTOOS Sen. McConnell

The legislation outlines that persons eighteen or older are eligible to receive a tattoo.

H.4006 STUDY COMMITTEE ON VETERAN HOMELESSNESS Rep. Gilliard

This joint resolution establishes a committee to study issues affecting veteran homelessness. The committee shall study the approximate number of homeless veterans residing in this state; the approximate number of South Carolina veterans who have been diagnosed with post traumatic stress disorder; the root causes of veteran homelessness and reasons why traditional veterans affairs services are not alleviating the situation, particularly with regard to job placement services; and the availability of basic human services to most economically disadvantaged veterans. The committee is comprised of three members of the Senate and three members of the House. The members of the committee shall elect a chairman and a vice chairman and shall meet as often and at any locale in the state as the committee considers necessary or expedient for the duration of the committee's existence. The committee shall render a written report of its findings and recommendations to the General Assembly and to the Governor not later than August 1, 2010, at which time the committee shall be dissolved and this joint resolution shall expire.

WAYS AND MEANS

S.343 POSTING CASES OF ABUSE, NEGLECT, AND EXPLOITATION OF VULNERABLE ADULTS ON THE STATE'S WEBSITE Sen. Lourie

This concurrent resolution requests the South Carolina Budget and Control Board to require all agencies with investigative authority under the Omnibus Adult Protection Act, or any federal statute, to make their cases of abuse, neglect, and exploitation of vulnerable adults which were substantiated or resulted in criminal convictions available on the State's website in a format to be developed by the Adult Protection Coordinating Council.

S.406 CONTINUING EDUCATION REQUIREMENTS FOR ASSESSORS Sen. Grooms

This bill revises continuing education requirements for assessors, by reducing the number of hours of instruction each year for assessors with an active license or certification from nine hours to seven hours.

S.412 BACK TAXES DUE ON MOBILE HOMES Sen. Thomas

This bill revises provisions for the contents of a certificate of title issued by the Department of Motor Vehicles, to provide that the title and bill of sale for a mobile home must contain a statement advising a purchaser of a mobile home to consult with the county assessor's office to determine if there are back taxes due on the mobile home. Also, the bill of sale shall contain a place for the seller of a mobile home to certify, under penalty of perjury, that there are no taxes due on the mobile home.

**S.690 STATE TAX CREDIT FOR HIRING AN INDIVIDUAL RECEIVING
UNEMPLOYMENT COMPENSATION BENEFITS Sen. Peeler**

This bill authorizes a state tax credit for employers hiring an unemployed individual receiving unemployment compensation benefits. The legislation establishes the amount of the credit, those taxes against which the credit is allowed, and the eligibility requirements for creditable employees. The legislation provides that the credit is allowed for eligible individuals hired after June 30, 2009, and before July 1, 2010, and extends for twenty-four months for each creditable employee.

H.3992 "SOUTH CAROLINA FAIR TAX ACT" Rep. Rice

This bill enacts the "South Carolina Fair Tax Act" so as to, effective January 1, 2011, establish provisions for the taxation of all goods and services and eliminate the South Carolina Income Tax Act, income tax withholding, the income tax on banks and savings and loan associations, the South Carolina Estate Tax Act, and the South Carolina Sales Tax Act.

H.3993 TAXATION OF WATERCRAFT Rep. Loftis

This bill provides that a watercraft and its motor is not eligible for the county option partial property tax exemption if the boat or watercraft is classified as a primary or secondary residence for property tax purposes. The legislation revises provisions relating to boats with a situs in this state for purposes of imposing the property tax, so as to provide that the governing body of a county by ordinance may provide that a boat, including its motor if the motor is separately taxed, is subject to property tax if it is within this state for one hundred eighty days in the aggregate, regardless of the number of consecutive days.

**H.3997 STATE INCOME TAX CREDIT FOR RESTAURANT WASTE OIL
DONATED FOR BIODIESEL FUEL PRODUCTION Rep. H. B. Brown**

This bill provides for a credit against the state income tax for donations of waste oil from the kitchens of restaurants and other commercial kitchens to registered producers of biodiesel fuel.

**H.4004 NEW FACILITY FOR THE UNIVERSITY OF SOUTH CAROLINA'S
MOORE SCHOOL OF BUSINESS Rep. Merrill**

This joint resolution authorizes the University of South Carolina to develop and construct a new facility for the Moore School of Business in the Innovista District on the Columbia campus.

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